

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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AUGUSTO TORRES and JOSE GARCIA,

Plaintiffs,

-against-

**2305 SECOND CORP., 422 EAST 118th STREET, LLC, EAST
119TH STREET REALTY HOLDINGS, LLC, 2123
JACQUELINE REALTY, LLC, AQEL MANAGEMENT INC.,
SAID AQEL, and JENNIFER AQEL,**

Defendants.
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**CIVIL ACTION NO.
1:18-cv-07690
(PGG) (SLC)**

**DECLARATION OF
CHARLES E.
DORKEY III IN
SUPPORT OF
MOTION TO DISMISS
FOR FAILURE TO
PROSECUTE**

I, Charles E. Dorkey III, an attorney duly admitted to the Bar of the State of New York,
hereby declare pursuant to 28 U.S.C. 1746 as follows:

1. I am a partner of Dentons US LLP and counsel for defendants 2305 Second Corp.,
422 East 118th Street, LLC, East 119th Street Realty Holdings, LLC, 2123 Jacqueline Realty,
LLC, Aqel Management Inc., Said Aqel, and Jennifer Aqel (“Defendants”). I submit this
declaration in support of the Defendants’ motion to dismiss for failure to prosecute pursuant to
Rule 41(b) of the Federal Rules of Civil Procedure.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Complaint herein.

3. Attached hereto as Exhibit 2 is a true and correct copy of the Amended Complaint
herein.

4. Attached hereto as Exhibit 3 is a true and correct copy of the Defendants’ Answer
herein.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Affidavit of
Alexander Aqel Pursuant to February 26, 2019 Order (“Aqel Aff.”) herein.

6. Attached hereto as Exhibit 5 is a true and correct copy of Magistrate Judge Pitman's order to file affidavits regarding their version of the events of February 21, 2019 herein.

7. Attached hereto as Exhibit 6 is a true and correct copy of the motion of plaintiffs' counsel to withdraw from representing Mr. Jose Garcia herein.

8. Attached hereto as Exhibit 7 is a true and correct copy of Magistrate Judge Pitman's order granting the motion of plaintiffs' counsel to withdraw from representation of Mr. Jose Garcia herein.

9. Attached hereto as Exhibit 8 is a true and correct copy of the motion of plaintiffs' counsel to withdraw from representing Mr. Augusto Torres herein.

10. Attached hereto as Exhibit 9 is a true and correct copy of Magistrate Judge Pitman's endorsed order granting the motion of plaintiffs' counsel to withdraw from representation of Mr. Augusto Torres herein.

11. Attached hereto as Exhibit 10 is a true and correct copy of the Stipulation of Dismissal with Prejudice with Respect to Plaintiff Augusto Torres herein.

12. Attached hereto as Exhibit 11 is a true and correct copy of the letter of Mr. Garcia's former counsel dated April 4, 2019, that provided to the Court Mr. Garcia's available contact information herein.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Defendants' letter to Magistrate Judge Cave, dated October 28, 2019 herein.

14. Attached hereto as Exhibit 13 is a true and correct copy of Magistrate Judge Cave's Scheduling Order for parties to appear for a status conference on November 7, 2019 herein.

15. Attached hereto as Exhibit 14 is a true and correct copy of Magistrate Judge Cave's Order requiring Mr. Garcia to submit a letter explaining his failure to appear at status conference on November 7, 2019 herein.

16. Attached hereto as Exhibit 15 is a true and correct copy of Magistrate Judge Cave's Order to Show Cause why this case should not be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute herein.

17. Attached hereto as Exhibit 16 is a true and correct copy of Magistrate Judge Cave's Order for the Defendants to file a motion to dismiss herein.

Executed on: New York, New York
December 20, 2019

By: /s/ Charles E. Dorkey III
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